

Message Text

LIMITED OFFICIAL USE

PAGE 01 TOKYO 06505 171316Z

51

ACTION EB-11

INFO OCT-01 EUR-25 EA-11 ISO-00 AID-20 CEA-02 CIAE-00

COME-00 FRB-02 INR-10 IO-14 NEA-14 NSAE-00 RSC-01

OPIC-12 SP-03 TRSE-00 CIEP-02 LAB-06 SIL-01 SWF-02

OMB-01 STR-08 L-03 H-03 SS-20 NSC-07 OIC-04 PA-04

PRS-01 USIA-15 DRC-01 /204 W
----- 059374

P R 171030Z MAY 74

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC PRIORITY 1946

INFO AMEMBASSY ANKARA

AMEMBASSY ATHENS

AMEMBASSY BERN

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY CANBERRA

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY THE HAGUE

AMEMBASSY HELSINKI

AMEMBASSY LISBON

AMEMBASSY LUXEMBOURG

AMEMBASSY MADRID

AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY REYKJIVIK

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY VIENNA

AMEMBASSY WELLINGTON

US MISSION BRUSSELS

US MISSION OECD PARIS

USUN NY 1741

AMEMBASSY LONDON

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 TOKYO 06505 171316Z

LIMITED OFFICIAL USE TOKYO 6505

E.O. 11652: N/A

TAGS: EFIN JA

SUBJ: DIRECT INVESTMENT ISSUES IN THE OECD

REF: (A) STATE 089852 (B) TOKYO 6090

SUMMARY: GOJ HAS PROVIDED PAPER IN RESPONSE TO ISSUES RAISED IN REF A. WHILE FAVORING ACTIVE PURSUIT OF WORK ON INTERNATIONAL INVESTMENT, GOJ CLEARLY MAINTAINS THAT SUCH ISSUES SHOULD BE TREATED TOGETHER WITH MNC'S ISSUES. GOJ AGREES TO ELABORATION OF NATIONAL TREATMENT PRINCIPLE. IT BELIEVES THAT FURTHER CLARIFICATION IS REQUIRED OF CONCEPT OF RIGHT OF ESTABLISHMENT; THIS POINT, HOWEVER, SHOULD BE EXAMINED IN CONJUNCTION WITH SCOPE OF ENTERPRISES' ACTIVITIES. GOJ BELIEVES THAT WHEREAS ADDITIONAL MACHINERY MIGHT BECOME NECESSARY, IT IS PREMATURE TO DECIDE ON APPROPRIATENESS OF SUGGESTED HIGH-LEVEL GROUP. GOJ AGREES THAT PROBLEMS OF DIRECT INVESTMENT IN LDC'S SHOULD BE CONSIDERED AT LATER STAGE. END SUMMARY.

1. ON MAY 17 TESHIMA (ASSISTANT DIRECTOR GENERAL, ECONOMIC AFFAIRS BUREAU, FONOFF), IN ABSENCE OF MIYAZAKI AND TSURUMI, PROVIDED E/C COUNS WITH PAPER REPRESENTING WHAT HE TERMED QTE FORMAL TENTATIVE REACTIONS UNQTE TO EMBASSY'S TALKING PAPER BASED ON REF A. (REFERENCES IN GOJ PAPER TO QTE US NOTE UNQTE RELATE TO TALKING PAPER.) ACCORDING TO TESHIMA, GOJ PAPER HAS BEEN CLEARED BY ALL MINISTRIES CONCERNED.

2. TEXT OF GOJ PAPER AS FOLLOWS:

BEGIN TEXT. 1. THE WAY IN WHICH WORK ON INTERNATIONAL INVESTMENT SHOULD PROCEED.
WE AGREE THAT THE OECD SHOULD ACTIVELY PURSUE ITS WORK ON INTERNATIONAL INVESTMENT, AND WOULD LIKE TO SEE THE WORK BEAR FRUIT SPEEDILY. HOWEVER, WE CONSIDER THAT THE WORK SHOULD PROCEED WITHIN THE FRAMEWORK AGREED
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 TOKYO 06505 171316Z

UPON AT THE FOURTH XCSS. THAT IS TO SAY THAT PROBLEMS OF BOTH INTERNATIONAL INVESTMENT AND MNC'S, SUCH AS THE NATIONAL TREATMENT PRINCIPLE, INTERNATIONAL DISTORTION RESULTING FROM INVESTMENT POLICY MEASURES, TAKE-OVER, CODE OF CONDUCT OF MNC'S, SHOULD BE DEALT WITH AS A WHOLE. THIS IS NECESSARY IN ORDER TO ENSURE AN OVERALL COHERENCE IN THE APPROACH TO THESE DIFFERENT PROBLEMS. THUS, THE SPECIALIZED COMMITTEES AS WELL AS THE AD HOC EXPERTS GROUP

SHOULD PURSUE THEIR WORK IN SUCH A WAY THAT THESE VARIOUS PROBLEMS ARE DEALT WITH ROUGHLY SIDE BY SIDE, RATHER THAN CONCENTRATING AND FINALIZING ONLY ONE OR LIMITED NUMBER OF PROBLEMS BEFORE TAKING UP OTHERS.

2. THE RELATIONSHIP BETWEEN NATIONAL TREATMENT PRINCIPLE AND RIGHT OF ESTABLISHMENT

(1) NOW THAT GENERAL CONSENSUS HAS BEEN REACHED WITHIN THE AD HOC EXPERT GROUP AS A RESULT OF THE SEVERAL MEETINGS ALREADY HELD THAT THE NATIONAL TREATMENT PRINCIPLE SHOULD APPLY TO LEGALLY OPERATING ENTERPRISES, WE DEEM IT PRACTICAL TO PROCEED WITH THE ELABORATION OF THIS PRINCIPLE ON THE BASIS OF THIS CONSENSUS.

(2) THEREFORE, AS REGARDS THE QUESTION OF QTE GAP UNQTE AS POINTED OUT IN THE US NOTE, IT SHOULD BE TAKEN UP IN THE FUTURE.

(3) STILL, IT APPEARS THAT THE VERY CONCEPT OF RIGHT OF ESTABLISHMENT HAS NOT BEEN SUFFICIENTLY CLARIFIED AND THAT THERE IS A LACK OF COMMON UNDERSTANDING AS TO THE SUBSTANCE OF THE RIGHT OF ESTABLISHMENT WHICH SHOULD BE CONSIDERED TO BE LEFT AS THE GAP. WE WOULD THEREFORE HAVE NO OBJECTION TO CONTINUING TO EXAMINE THIS POINT, IN CONJUNCTION WITH THE EXAMINATION ON THE SCOPE OF ENTERPRISES' ACTIVITIES, TO WHICH THE NATIONAL TREATMENT PRINCIPLE SHOULD COVER.

3. HIGH LEVEL MEETING

IF ANY PRINCIPLES, GUIDELINES OR CONSULTATION PROCEDURES ARE TO BE ESTABLISHED AS A RESULT OF THE CURRENT WORK ON PROBLEMS OF INTERNATIONAL INVESTMENT AND MNC'S, AN ADDITIONAL MACHINERY OF SOME SORT COULD BE CONSIDERED NECESSARY. BUT IT SEEMS TO US STILL PRE-MATURE TO FORM JUDGMENT AS TO WHETHER IT IS APPROPRIATE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 TOKYO 06505 171316Z

TO SET IT UP IN SUCH A FORM AS IS INDICATED IN THE US NOTE. THE QUESTION AS TO WHAT FORM THIS MACHINERY MIGHT TAKE MAY BE DISCUSSED IN THE COURSE OF THE PRESENT WORK. IN THE MEANTIME SUCH PROBLEMS AS RAISED IN THE US NOTE COULD BE DEALT WITH AS OCCASION DEMANDS IN SUCH EXISTING FORA AS XCSS.

4. DIRECT INVESTMENT IN LDC'S

WE ON OUR PART ALSO HAVE GREAT INTEREST IN THE PROBLEMS OF DIRECT INVESTMENT IN LDC'S, AND BASICALLY SHARE THE VIEW ADVANCED IN THE US NOTE THAT THE OECD SHOULD TAKE UP THE MATTER IN DUE COURSE. HOWEVER, WHEN THE TIME COMES, WE MIGHT FIND IT NECESSARY TO GIVE FURTHER REFLECTION AS TO WHAT SPECIFIC ASPECTS COULD USEFULLY BE TAKEN UP, ALSO IT MAY BE POINTED OUT

THAT SOME OF THE PROBLEMS LISTED IN THE US NOTE HAVE BEEN
ALREADY EXAMINED IN THE OECD. END TEXT.

3. IN DISCUSSION WITH E/C COUNS TESHIMA NOTED
THAT GOJ PAPER EMPHASIZES GOJ VIEW, WHICH HE STATED
HAD BEEN AGREED TO IN OECD, THAT WORK ON INVESTMENT
REFORM AND MULTINATIONAL CORPORATIONS WHOULD PROCEED AS
PART OF SAME EXERCISE. IN RESPONSE TO E/C COUNS
QUESTION, TESHIMA SAID THAT GOJ/VIEWS ON TREATMENT OF
FOREIGN INVESTMENT ISSUES RELATING TO LDC'S.

4. FONOFF WOULD APPRECIATE ADVICE AS TO POSITION US DEL WILL
TAKE ON
INTERNATIONAL INVESTMENT ITEM AT OECD MINISTERIAL MEETING,
IF THAT IS POSSIBLE.
SHOESMITH

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INVESTMENT LAW, INVESTMENTS, CAPITAL FLOWS, FOREIGN POLICY POSITION
Control Number: n/a
Copy: SINGLE
Draft Date: 17 MAY 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974TOKYO06505
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740122-0817
From: TOKYO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740536/aaaabgfn.tel
Line Count: 185
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: (A) STATE 089852 (B) TOKYO 6090
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 26 MAR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 MAR 2002 by collinp0>; APPROVED <08 MAY 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DIRECT INVESTMENT ISSUES IN THE OECD
TAGS: EFIN, JA, OECD
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005